

(1) Instructing those who make decisions on placement and promotion that minority employees and females are to be considered without discrimination, and that job areas in which there is little or no minority or female representation should be reviewed to determine whether this results from discrimination;

(2) Giving minority groups and female employees equal opportunity for positions which lead to higher positions. Inquiring as to the interest and skills of all lower paid employees with respect to any of the higher paid positions, followed by assistance, counseling, and effective measures to enable employees with interest and potential to qualify themselves for such positions;

(3) Providing opportunity to perform overtime work on a basis that does not discriminate against qualified minority group or female employees.

(e) Encourage minority and female entrepreneurs to conduct business with all parts of its operation. For example, this requirement may be met by:

(1) Recruiting as wide as possible a pool of qualified entrepreneurs from sources such as employee referrals, community groups, contractors, associations, and other sources likely to be representative of minority and female interests.

(f) Analyze the results of its efforts to recruit, hire, promote, and use the services of minorities and women and explain any difficulties encountered in implementing its equal employment opportunity program. For example, this requirement may be met by:

(1) Where union agreements exist, co-operating with the union or unions in the development of programs to assure qualified minority persons or females of equal opportunity for employment, and including an effective non-discrimination clause in new or renegotiated union agreements;

(2) Avoiding use of selection techniques or tests that have the effect of discriminating against qualified minority groups or females;

(3) Reviewing seniority practices to ensure that such practices are non-discriminatory;

(4) Examining rates of pay and fringe benefits for employees having the same

duties, and eliminating any inequities based upon race or sex discrimination.

§ 76.77 Reporting requirements.

(a) *Annual employment report.* Each employment unit with six or more full-time employees shall file an annual employment report (FCC Form 395-A) with the Commission on or before September 30 of each year. Employment data on the annual employment report shall reflect the figures from any one payroll period in July, August, or September of the year during which the report is filed. Unless instructed otherwise by the FCC, the same payroll period shall be used for each successive annual employment report.

(b) *Certification of Compliance.* The Commission will use the information submitted on Form 395A to determine whether cable systems are in compliance with the provisions of this subpart. Cable systems found to be in compliance with these rules will receive a Certificate of Compliance.

(c) *Investigations.* The Commission will investigate each cable system at least once every five years. Cable systems are required to submit supplemental investigation information with their regular Form 395A reports in the years they are investigated.

(d) *Job category definitions.* The following job category definitions are to be used when classifying employees for purposes of this section:

(1) *Corporate officers.* An employee who is responsible for setting broad policies for the overall operation of the company and who holds a corporate office as designated by the company's governing regulations (*e.g.*, Articles of Incorporation, Articles of Partnership, By-Laws). Examples of positions which may fall within this category include, Chairman of the Board, President and Vice President.

NOTE: Employees who perform responsibilities falling within the "Corporate Officers" and another of the job categories in paragraphs (d) (2) through (6), should normally be classified in only one of the categories in paragraphs (d) (2) through (6). Specific job titles for categories in paragraphs (d) (1) through (6) are merely illustrative. The proper categorization of any employee depends on the kind and level of the employee's responsibilities and not merely the employee's

title. Employees who are appropriately classified into one of the categories in paragraphs (d) (1) through (6) also should fall within the category of paragraph (d)(7).

(2) *General manager.* An employee who exercises overall responsibility for a cable unit or system. Related title may include "systems manager."

(3) *Chief technician.* An employee who has overall responsibility for the system's technical operations. The incumbent ordinarily oversees technical budgets and expenditures, inventory control and fleet management. Individual ordinarily supervises technical personnel in the installation, service, maintenance and construction departments and/or studio. Category includes related titles such as "Technical Operations Manager," "Technical Manager," "Plant Manager," or "Chief Engineer."

(4) *Comptroller.* An employee who manages the activities of the accounting department in the maintenance of the accounting book and other such records.

(5) *General sales manager.* A senior sales or marketing employee who oversees the marketing functions of the system which may include telemarketing in addition to direct sales.

(6) *Production manager.* A senior employee responsible for advertising and/or production of local community programming.

NOTE: An employee whose responsibilities fall within more than one of the job categories in paragraphs (d) (2) through (6), (i.e., General Manager/Comptroller), should be listed in the one job category which represents the most frequently performed task by that person.

(7) *Managers.* Occupations requiring administrative personnel who set broad policies, exercise overall responsibility for execution of these policies, and direct individual departments or special phases or segments of a firm's operation or subdepartments of a major department. Incumbents within this category ordinarily exercise authority to hire and terminate employees. This category would include systems managers and assistant managers, program directors and assistant directors, office managers, budget officers, promotions managers, public affairs directors, chief engineers and those holding

equivalent positions. Employees appropriately falling within categories in paragraphs (d) (1) through (6) also should fall within this category.

(8) *Professionals.* Occupations requiring either college graduation or experience of such kind and amount as to provide a comparable background. Includes: accountants and auditors, editors, engineers, lawyers and labor relations specialists. This category would include persons engaged in the writing, preparation and reproduction of programming, writers or editors, producers and directors of programs, floor directors, announcers, singers, actors, music librarians and those in similar positions.

(9) *Technicians.* Occupations requiring a combination of basic scientific knowledge and manual skill which can be obtained through about 2 years of post high school education, such as is offered in many technical institutes and junior colleges, or through equivalent on-the-job training. Includes: computer programmers and operators, engineering aides, junior engineers and electronic technicians. This category also would include strand mappers, audio and video engineers, camera technicians (live or film), film processors, light technicians, drafters and design personnel, electronic converter repair technicians (technicians who perform more than clear and recycle functions) and advertising sales production personnel.

(10) *Sales.* Occupations engaging wholly or primarily in direct selling. This category would include advertising agents, cable service sales personnel (sales representatives), and individuals engaged in direct customer contact for the purposes of product and service promotion. This category includes employees who ordinarily are paid by commissions.

(11) *Office and clerical.* Includes all clerical-type work regardless of level of difficulty, where the activities are predominantly nonmanual though some manual work not directly involved with altering or transporting the products is included. Includes: Bookkeepers, cashiers, collectors of bills and accounts, messengers and clerks,

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office machine operators, stenographers, typists and secretaries, telephone operators, kindred workers and customer service representatives.

(12) *Craft workers (skilled)*. Manual workers of relatively high skill level having a thorough and comprehensive knowledge of the processes involved in their work. Exercise considerable independent judgment and usually receive an extensive period of training. Includes: Hourly paid supervisors who are not members of management, mechanics, and repair workers, electricians, motion picture projectionists, and splicers.

(13) *Operatives (semi-skilled)*. Workers who operate machine or processing equipment or perform other factory-type duties of intermediate skill level which can be mastered in a few weeks and require only limited training. Includes: Apprentices, operatives, truck and tractor drivers, welders, installers, line workers, and trenching machine workers.

NOTE: Apprentices—Persons employed in a program including work training and related instruction to learn a trade or craft which is traditionally considered an apprenticeship regardless of whether the program is registered with a Federal or State agency.

(14) *Laborers (unskilled)*. Workers in manual occupations which generally require no special training. Perform elementary duties that may be learned in a few days and require the application of little or no independent judgment. Includes: gardeners and groundskeepers, laborers performing lifting or digging, stage hands and kindred workers.

(15) *Service workers*. Workers in both protective and nonprotective service occupations. Includes: Char workers and cleaners, elevator operators, guards and watch workers, janitors, and kindred workers.

NOTE: A person who does a job falling within more than one of the job categories listed in paragraphs (d) (7) through (15) is to be listed in the job category which represents the most frequently performed task by that person; a person is to be listed only once. Specific job titles listed in the categories above are merely illustrative. The proper categorization of any employee depends on the

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kind and level of the employee's responsibilities.

[50 FR 40855, Oct. 7, 1985, as amended at 58 FR 42250, Aug. 9, 1993; 63 FR 16907, Apr. 7, 1998]

§ 76.79 Records available for public inspection.

(a) A copy of every annual employment report, and any other employment report filed with the Commission, and complaint report that has been filed with the Commission, and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the cable entity and the Commission pertaining to the reports after they have been filed in all documents incorporated therein by reference, unless specifically exempted from the requirement, are open for public inspection at the offices of the Commission in Washington, DC.

(b) Every employment unit shall maintain for public inspection a file containing copies of all annual employment reports. Each document shall be retained for a period of five years. The file shall be maintained at the central office and at every location with more than five full-time employees. A headquarters employment unit file and a file containing a consolidated set of all documents pertaining to the other employment units of a multiple cable operator shall be maintained at the central office of the headquarters employment unit. The cable entity shall provide reasonable accommodations at these locations for undisturbed inspection of his equal employment opportunity records by members of the public during regular business hours.

Subpart F—Nonduplication Protection and Syndicated Exclusivity

SOURCE: 53 FR 27171, July 19, 1988, unless otherwise noted.

§ 76.92 Network non-duplication; extent of protection.

(a) Upon receiving notification pursuant to § 76.94, a cable community unit located in whole or in part within the geographic zone for a network program, the network non-duplication